

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BOARD OF TRUSTEES OF THE DISTRICT 6  
HEALTH PLAN,

Plaintiffs,

-against-

PINNACLE MANAGING CO., LLC; REALTY CORP.,  
LLC, a/k/a 3647 REALTY CO., LLC, a/k/a 3657  
REALTY CO., LLC, a/k/a 3647 AND 3657 REALTY  
CO., LLC; and WIENER REALTY, LLC,

Defendants.

07 Civ. 6391 (GBD)

**DECLARATION OF  
MARC A. TENENBAUM**

MARC A. TENENBAUM declares:

1. I am an attorney duly admitted to practice in this Court and am affiliated with the law firm of Barnes, Iaccarino, Virginia, Ambinder & Shepherd, PLLC, which is counsel to the Board of Trustees of the District 6 Health Plan (the "Plan") in this case.

2. I am fully familiar with the facts of this proceeding and submit this declaration in connection with the accompanying Reply Memorandum of Law in Support of Plaintiffs' Motion to Dismiss Counterclaims and to Strike First and Second Affirmative Defenses.

3. Attached hereto as Exhibit 1 is a copy of a Memorandum of Agreement produced by the Defendants during discovery in this case.

4. Attached hereto as Exhibit 2 is a copy of the Form 5500 and accompanying financial statements for September 1, 2002 through August 31, 2003 that the Plan filed with the United States Department of Labor ("DOL").

5. Attached hereto as Exhibit 3 is a copy of the Form 5500 and accompanying financial statements for September 1, 2003 through August 31, 2004 that the Plan filed with DOL.

6 Attached hereto as Exhibit 4 is a copy of the Form 5500 and accompanying financial statements for September 1, 2004 through August 31, 2005 that the Plan filed with DOL.

7. Attached hereto as Exhibit 5 is a copy of the Form 5500 and accompanying financial statements for September 1, 2005 through August 31, 2006 that the Plan filed with DOL.

8. Attached hereto as Exhibit 6 is a copy of the Form 5500 and accompanying financial statements for September 1, 2006 through August 31, 2007 that the Plan filed with DOL.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed on September 15, 2008.

  
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Marc A. Tenenbaum